HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, CJ.

Writ Petition No.928 of 1999

Petitioners

1. Umesh Mishra,
   Son of Shri K.P. Mishra,
   Aged about 48 years,
   Resident of Subhash Nagar,
   Secretary, United Club, Bilaspur.

2. United Club Chantapara, Bilaspur
   Through its Secretary,
   Umesh Mishra.

Versus

Respondents

1. The State of Madhya Pradesh,
   Through the Secretary,
   Revenue Department,
   Vallabh Bhawan,
   Bhopal.

2. Collector, Bilaspur.

3. Nazool Officer,
   Bilaspur.

4. Municipal Corporation, Bilaspur,
   Through its Commissioner,
   Municipal Corporation, Bilaspur

Present : Shri K.A. Ansari, learned Sr. Advocate with Shri Umesh Mishra, learned counsel for the petitioners.

Shri Yashwant Singh, learned G.A. assisting Shri Prashant Mishra, learned Add. A.G. for the State.

ORAL ORDER
(Passed on 16.6.2006)

This writ petition under Articles 226 and 227 of the Constitution of India is filed by the United Club which is set to be a Club formed by the members of the Bilaspur Bar and its Secretary Shri Umesh Mishra. In the writ petition, it is stated that an area ad-measuring 22900 sq. ft. comprised in Khasra No. 13 of Chantapara, Bilaspur was initially leased to the United Club vide order dated 10-10-1913 for a period of

30 years by the Revenue Secretary of the undivided Government of M.P. Subsequently, the term of the lease was extended from time to time and the last extension on 8-3-1967 was for a period of 30 years. Admittedly, after the expiry of 30 years term on 07-03-1997, the Club did not make any application to the State Government to extend lease for any further period. When the matter stood thus, it appears that the Collector, Bilaspur District by his order dated 24-10-1997 directed resumption of the subject land and handing over the same to the Land Pool Committee to deal with it in accordance with law. At that stage, the present writ petition was filed. This Court while entertaining this writ petition on 15-03-1999 directed that the status-quo in regard to possession of the subject property shall be maintained till further orders. The said interim direction issued by this Court on 15-03-1999 has been in operation till date.

(2) In the writ petition, the impugned action has been attacked on several grounds, such as, that (I) it was made in violation of principles of natural justice and without notice; (II) the impugned action is *mala fide* and arbitrary; (III) the impugned action is violative of Articles 14, 19(i)(b), (c),(e) & (g) and 300 – A of the Constitution; (IV) the State is not entitled to dispossess the Club without following the due procedure established by law; (V) that the impugned order is totally without jurisdiction, arbitrary etc.

(3) In the premise, the petitioner has sought for the following reliefs:-

> "Relief(s) Sought:
> It is, therefore, prayed that this Hon'ble Court be kind enough to:-

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7.1 direct the respondents to produce the records of the case and the order dt. 24.10.97;

7.2 Quash the entries in the revenue records ANN-P/8 for the years 1996-97 and 1997-98 on the basis of order dt. 24-10-97 and also quash the order dt. 24-10-97;

7.3 Command the respondents not to interfere with the peaceful possession of the petitioners on the plot kh. No. 11/2 and 13 total area 52375 sq. ft. of Chantapara, Bilaspur and the respondents be directed not to interfere with the building standing on that plot;

7.4 Direct the respondents 2 & 3 to furnish to the petitioner the copy of order dt. 24-10-97;

7.5 Issue any other writ or writs, order or orders, direction or directions, which this Hon'ble Court deems fit and proper in the facts and circumstances of the petition;

7.6 Award the cost of this petition".

(4) Opposing the writ petition, the undivided State of M.P. represented by the Secretary Revenue Department (first respondent), Collector, Bilaspur (second respondent) and Nazul Officer (third respondent) have jointly filed the return dated 12-05-1999 *inter alia* contending that the subject land was given to the petitioner Club from time to time and the last extension of the term came to an end on 31-03-1994 (but, as per the learned Additional Advocate General that statement is not correct statement and the last extension was up to 08-03-1997); the State Authorities did not accept any ground rent from the year 1992-93 nor the petitioner Club made any payment towards annual ground rent after 1992-93. It is stated that after the expiry of the term of the last extension of the lease, the petitioner Club did not make any application for extension of the lease. The Collector, Bilaspur by his order dated 01-03-1997 directed that the subject land

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be used as per the decision/guidelines laid down by the Land Pool Committee. A copy of the said order of the District Collector, Bilaspur is annexed to the written statement as Annexure R/1. It is also contended by the respondent-State and State Authorities that the petitioner Club, in no manner, has any right or interest in the subject land after the expiry of the term of the last extension of the lease and therefore, issuing notice by the District Collector, Bilaspur district before he passed the order dated 01-03-1997, would not arise.

(5) I heard Shri K.A. Ansari, learned Senior counsel for the petitioner and Shri Prashant Mishra, learned Additional Advocate General for the State and its authorities. Shri Ansari would contend that the impugned action smacks of arbitrariness and high handedness on the part of the State and the State Authorities, and moreover, the District Collector directed the resumption of the subject land from the petitioner Club without issuing any notice to the petitioner Club and thereby violating mandatory provisions of principles of natural justice. It was also highlighted by Shri Ansari that the petitioner Club was not given any time to remove the articles kept in the premises and other infrastructure facilities provided by the Club to its members. Learned Additional Advocate General, *per contra*, while supporting the impugned action, would contend that after 07-03-1997, the petitioner Club could not claim any right or interest in the subject property and therefore, under no circumstance the reliefs as sought for in this writ petition, could be granted.

(6) Having heard learned counsel for the parties, a short question that arises for decision is whether any ground is made out by the

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petitioner Club to grant any relief. If I may say so, the facts of this case are startling and this case could be a classic case to show that how a public interest would suffer irreparable injury in an unrighteous litigative process. Admittedly, the subject land is the property of the Government. It appears that from the year 1913 till 1997, at the request of the Club, the subject land was allotted to be used by the Club for the benefit of its members. It is also admitted fact that after 07-03-1997, the Club did not seek extension of lease. At this stage, it needs to be noticed that it is not that the Collector, Bilaspur on the very day when lease came to an end, took coercive steps to dispossess the Club highhandedly without giving any time to the Club to remove its article, other goods and infrastructure facilities provided to its members. The District Collector directed resumption of the land and to handover the same to Land Pool Committee on 24-10-1997, that is to say, more than seven months after the term of the last lease came to an end. Such an action on the part of the District Collector could not be condemned as arbitrary or unreasonable. After 07-03-1997, it was for the District Collector and for the Government Authorities to decide how the Government property could be used in the best public interest. It is not the right of the petitioner that the Government should have *suo-motu* extended the term of the lease as a matter of legal obligation nor was it the right of the petitioner Club to contend that the Government property should be allowed to be used by the Club all the years to come without any corresponding obligations and accountability on its part. The principles of natural justice are essentially meant to advance justice and not to thwart justice. Here is a case where, if I may say so, great public mischief would be caused if

the Court should step-in under Article 226 and permit the Club to squat on the subject Government property without any semblance of legal right on the specious ground that the District Collector before passing the order did not issue notice to the petitioner Club to vacate and handover the subject premise to the State Authorities. Be that as it may, by virtue of the interim order, the petitioner Club has been in possession of the subject property for considerable time though in the course of the arguments learned Additional Advocate General would tell the Court that the possession of the subject land was taken over by the District Collector on 24-10-1997 itself. The fact remains that in the litigative process, the valuable property of the State Government is not used in the way expected of the Government Authorities for the benefit of the people in the public interest. The loss sustained by the Government is enormous in terms of money also. I do not find any semblance of legal right or interest of the petitioner Club to claim any right over the subject land after 07-03-1997. In other words, after 07-03-1997, the Club has been squatting on the subject property as a high-rank encroacher. The equitable hands of this Court under Article 226 can not be extended to protect or preserve such unrighteous claim put fourth by the petitioner Club. The writ petition is, therefore, dismissed with cost quantified at Rs. 5,000/- (Rs. Five thousand only) payable to Chhattisgarh High Court Legal Services Committee within two week's from today.

Sd/-
Chief Justice

Ramde